

House File 328

H-1102

1 Amend House File 328 as follows:

2 1. Page 4, after line 12 by inserting:

3 <Sec. _____. Section 533D.9, subsection 2, paragraph

4 b, Code 2011, is amended to read as follows:

5 b. The annual percentage rate as computed pursuant

6 to the federal Truth in Lending Act. The annual

7 percentage rate shall not exceed thirty-six percent,

8 as computed pursuant to the federal Truth in Lending

9 Act, unless a licensee makes an election and submits to

10 the indebtedness limitations and electronic database

11 reporting requirements specified in section 533D.10A.

12 Sec. _____. Section 533D.9, subsection 2, Code 2011,

13 is amended by adding the following new paragraph:

14 NEW PARAGRAPH. e. That the licensee cannot

15 initiate debt collection procedures, civil court

16 proceedings, or arbitration to collect an unpaid check

17 unless the licensee has provided the maker of the check

18 the opportunity to repay the obligation without any

19 additional charges, other than the penalty provided in

20 paragraph "d" of this subsection, in biweekly payments

21 of not more than ten percent of the face of the check

22 until the debt is paid in full. Additionally, that

23 during this repayment period the licensee may not

24 transfer or sell the debt owing on the unpaid check,

25 and the loan shall not be considered to be in default.

26 Further, that the maker of the check's failure to make

27 a biweekly payment under this paragraph shall place

28 the loan in default and the licensee may, after proper

29 notice, exercise rights against the maker under the

30 law.

31 Sec. _____. Section 533D.10, subsection 1, Code 2011,

32 is amended to read as follows:

33 1. A licensee shall not do any of the following:

34 a. Hold from any one maker more than two checks at

35 any one time.

36 b. Hold from any one maker a check or checks in an

37 aggregate face amount of more than five hundred dollars

38 at any one time.

39 c. Hold or agree to hold a check for ~~more~~ less than

40 ~~thirty-one~~ fourteen days.

41 d. Require the maker to receive payment by a method

42 which causes the maker to pay additional or further

43 fees and charges to the licensee or another person.

44 e. Repay, refinance, or otherwise consolidate

45 a postdated check transaction with the proceeds of

46 another postdated check transaction made by the same

47 licensee. A licensee may not enter into another

48 delayed deposit services transaction with the maker of

49 a check if the licensee presently has a transaction

50 outstanding with the maker or if the maker had a

1 previous transaction with the licensee within two
2 days of the new transaction, unless the licensee has
3 provided the following notice both verbally and in
4 writing, and the maker has acknowledged receipt of the
5 notice with a signature and date:

6 Notice to Borrower

7 (1) The licensee may not repay, refinance, or
8 otherwise consolidate a postdated check transaction
9 with the proceeds of another postdated check
10 transaction made by the same licensee.

11 (2) While a licensee may charge a penalty if a
12 check is not negotiable on the date agreed upon, the
13 penalty shall not exceed fifteen dollars. This penalty
14 shall only be collected by the licensee once on a
15 check no matter how long that check remains unpaid.
16 This penalty is the only additional charge a lender
17 may charge you (the borrower) when a check is not
18 negotiable on the date agreed upon.

19 (3) If your check is not negotiable on the date
20 agreed upon, the licensee must provide you (the
21 borrower) the opportunity to repay the obligation
22 without any additional charges, other than the penalty
23 described above, in biweekly payments of not more than
24 ten percent of the face of the check until the debt is
25 paid in full.

26 By signing and dating this notice, you acknowledge
27 the statements above, but yet still desire to obtain
28 another loan with the licensee.

29 Borrower(s) signature: _____ Date: _____

30 Borrower(s) signature: _____ Date: _____

31 f. Receive any other charges or fees in addition to
32 the fees listed in section 533D.9, subsections 1 and 2.

33 g. Initiate debt collection procedures, civil
34 court proceedings, or civil or private arbitration
35 proceedings to collect an unpaid check unless the
36 licensee has provided the maker the opportunity to
37 repay the obligation without any additional charges,
38 other than the penalty provided in section 533D.9,
39 subsection 2, paragraph "d", in biweekly payments of
40 not more than ten percent of the face of the check
41 until the debt is paid in full. During this repayment
42 period the licensee may not transfer or sell the debt
43 owing on the unpaid check, and the loan shall not be
44 considered to be in default. The failure of the maker
45 of the check to make a biweekly payment as required
46 shall place the loan in default and the licensee may,
47 after proper notice, exercise rights against the maker
48 under the law.

49 Sec. ____. **NEW SECTION. 533D.10A Alternative annual**
50 **percentage rate — indebtedness limitation — electronic**

1 database.

2 1. A licensee may elect to impose an annual
3 percentage rate, as computed pursuant to the federal
4 Truth in Lending Act, which exceeds thirty-six percent
5 by filing with the superintendent a written notice of
6 intent. An election pursuant to this section shall
7 apply to all delayed deposit services transactions
8 entered into by the licensee. A licensee having made
9 an election pursuant to this section who desires to
10 discontinue imposition of an alternative interest rate
11 and consents to imposition of the thirty-six percent
12 annual percentage rate otherwise applicable under
13 this chapter, or a licensee previously imposing an
14 annual percentage rate not exceeding thirty-six percent
15 who desires to make an election pursuant to this
16 subsection, may submit a request to the superintendent,
17 not more than once a year.

18 2. A licensee electing to impose an alternative
19 annual percentage rate pursuant to this section
20 shall be prohibited from entering into a delayed
21 deposit services transaction which will cause the
22 maker of the check, when all other delayed deposit
23 services transactions entered into with any licensee
24 involving the maker of the check are accounted for,
25 and when the term of the transaction is aggregated
26 with the other transactions, to be indebted for a
27 period exceeding ninety days during the preceding
28 twelve-month period. For purposes of this paragraph,
29 if the maker of the check has entered into more than
30 one delayed deposit services transaction with the
31 same or another licensee, and the periods during which
32 the transactions are outstanding overlap, each day
33 of each respective transaction shall be counted in
34 satisfying the ninety-day restriction. For purposes
35 of this subsection, if a maker of a check is making
36 biweekly payments during a repayment period as provided
37 in section 533D.9, subsection 2, paragraph "e", the
38 repayment period shall not be counted in satisfying the
39 ninety-day restriction.

40 3. a. Each licensee making an election pursuant to
41 this section shall, by October 1, 2011, subscribe to,
42 report to, and utilize an electronic database tracking
43 service to be developed or selected pursuant to rules
44 adopted by the banking division of the department
45 of commerce, that permits the licensee to determine
46 whether a maker of a check has an outstanding unpaid
47 check or debit authorization that is, or reasonably
48 appears to be, connected to a delayed deposit services
49 transaction. Each licensee shall require a maker
50 of a check to sign a written declaration confirming

1 that, pursuant to section 533D.10A, subsection 2, the
2 maker of the check is eligible to enter into a delayed
3 deposit services transaction.

4 *b.* Records of a licensee and the electronic
5 database tracking service shall be subject to review
6 and examination by the division to determine whether
7 the licensee is in compliance with this section and
8 other applicable provisions of this chapter.

9 *c.* Information, records, and documents obtained
10 in the performance of the review and examination,
11 including the amount of any outstanding unpaid check or
12 debit authorization and the identity of the maker of
13 the check, are confidential and shall not be disclosed
14 by the division and are not subject to subpoena. Such
15 information, records, and documents do not constitute
16 a public record under chapter 22. The superintendent
17 may disclose such information to representatives of
18 other state or federal regulatory authorities and
19 may release summary complaint information so long as
20 the information does not specifically identify the
21 complainant. The superintendent may also provide this
22 information to the attorney general for purposes of
23 enforcing this chapter.>

24 2. Page 5, by striking lines 18 and 19 and
25 inserting:

26 <Sec. ____ . EFFECTIVE DATE.

27 1. The section of this Act amending section 524.904
28 takes effect upon enactment.

29 2. Section 533D.10A, subsection 2, as enacted in
30 this Act, takes effect October 1, 2011.>

PETERSEN of Polk